

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Acting Chairman;  
Nanci E. Langley, Vice Chairman;  
Mark Acton; and  
Tony Hammond

Competitive Product Prices  
Priority Mail Contract 152 (MC2016-13)  
Negotiated Service Agreement

Docket No. CP2016-15

ORDER AUTHORIZING EXTENSION OF PRIORITY MAIL NEGOTIATED SERVICE  
AGREEMENT AND DENYING MOTION FOR LATE ACCEPTANCE

(Issued November 23, 2016)

The negotiated service agreement approved in this proceeding (Existing Agreement) expired on November 8, 2016.<sup>1</sup> On November 22, 2016, the Postal Service filed a motion for late acceptance and notice of filing an extension, which was mutually agreed to by the parties under section III to the Existing Agreement on October 25, 2016.<sup>2</sup> The Postal Service states that “[p]reparation of a successor contract is active

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<sup>1</sup> Docket Nos. MC2016-13 and CP2016-15, Order No. 2803, Order Adding Priority Mail Contract 152 to the Competitive Product List, November 5, 2015, at 9.

<sup>2</sup> Motion of United States Postal Service for Late Acceptance of Notice of Extension of Priority Mail Contract 152, November 22, 2016 (Motion); Notice of United States Postal Service of Extension of Priority Mail Contract 152, with Portions Filed Under Seal, November 22, 2016 (Notice). A redacted version of the letter confirming the parties’ mutual agreement to the extension is attached to the Notice. Notice at 1. The Postal Service filed an unredacted version of the letter under seal. *Id.*

and the parties expect to reach an agreement over the coming weeks.” Notice at 1. Pending the filing of the successor agreement, the Postal Service requests that the Commission accept the extension of the Existing Agreement until January 7, 2017. See Motion at 1.

In its Motion, the Postal Service acknowledges that section III to the Existing Agreement provides that the Postal Service officially notify the Commission at least 7 days before the Existing Agreement’s expiration date.<sup>3</sup> The Postal Service states that although the parties agreed to exercise the section III extension within that timeframe, the appropriate notice was not filed with the Commission until two weeks after the Existing Agreement’s expiration date. See Motion at 1. The Postal Service explains that “[t]he delay was a result of the press of other business, and the need for additional internal review of the contract’s cost coverage prior to filing the instant notice.” *Id.*

The Commission has repeatedly stated that motions for temporary extensions of an agreement should be filed at least 7 days before the agreement’s expiration date.<sup>4</sup> The Commission reiterates that the dates on which contracts are scheduled to expire are known.<sup>5</sup> It is particularly concerning that the Postal Service has not explained why it was unable to file this Motion after the customer agreed to exercise the section III extension on October 25, 2016, and before the expiration of the Existing Agreement on November 8, 2016.

Retroactive approval of contractual extensions is extraordinary relief. See Order No. 1523 at 2. Consistent with the Commission’s prior denials of inadequately justified requests to retroactively approve contract extensions and the Commission’s prior guidance concerning the need to provide at least 7 days’ notice related to contractual

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<sup>3</sup> Motion at 1; see *also* Docket Nos. MC2016-13 and CP2016-15, Request of the United States Postal Service to Add Priority Mail Contract 152 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors’ Decision, Contract, and Supporting Data, October 27, 2015, Attachment B at 3.

<sup>4</sup> See *e.g.*, Docket No. CP2015-75, Order No. 3498, Order Granting Motion for Temporary Relief and Approving Modification Five, September 7, 2016, at 3.

<sup>5</sup> See, *e.g.*, Docket No. CP2009-38, Order Granting Motion for Temporary Relief and Providing Guidance Regarding Future Motions for Temporary Relief, November 1, 2012, at 2 (Order No. 1523).

extensions, it is not appropriate to approve a retroactive extension of the Existing Agreement.<sup>6</sup> Instead, the Commission approves the extension to the Existing Agreement prospectively. Therefore, the Existing Agreement is authorized to be in effect from the date of this Order until January 7, 2017, unless terminated earlier pursuant to contractual terms. During the interim period in which the Existing Agreement has lapsed, the contract partner shall pay the approved published rates for its Priority Mail pieces.

*It is ordered:*

1. The Motion of United States Postal Service for Late Acceptance of Notice of Extension of Priority Mail Contract 152 filed November 22, 2016, is denied.
2. Priority Mail Contract 152 is authorized to remain on the Mail Classification Schedule from November 23, 2016, through January 7, 2017, unless terminated earlier pursuant to the terms of the agreement.

By the Commission.

Stacy L. Ruble  
Secretary

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<sup>6</sup> See, e.g., Docket No. CP2009-38, Order No. 1565, Order Granting Emergency Motion of the United States Postal Service for Temporary Relief, December 5, 2012, at 3 (granting the motion for extension prospectively and finding that “it is not appropriate to grant the request for an extension of the Existing Agreement retroactively”).